IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 2008 of 2006

NATHULAL

V/S

JUDGE,LABOUR COURT & ORS.

Mr. PK BOHRA, for the appellant / petitioner

Date of Order : 17.5.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner, and perused the impugned award Annexure-10. The learned Labour Court has found that the workman has failed to prove to have worked for 240 days during preceding calendar year from 15.7.1988, so also in earlier any preceding calendar year, and that he had served even thereafter, and thus the petitioner has not been found entitled to any relief.

It was contended by the learned counsel for the petitioner, that the petitioner had proved to have worked for 240 days, not only by examining himself, but also by examining co-worker Suresh Kumar. It was contended that the petitioner had applied for production of muster rolls from 1978 to 1988, and it is admitted by the witness of the respondent, that the documents mentioned in the application

is not produced. It was contended that therefore the evidence led on the side of the petitioner should have been believed.

The Labour Court has found that the respondents had given statement of the break up of the days of the work on which the petitioner had worked during the entire tenure to show that the petitioner never worked for 240 days during any of the calendar years.

In my view, apart from the fact, that the question as to whether the petitioner had worked for 240 days, or not, is a pure question of fact, which has been decided by the learned Labour Court, by appreciating the evidence on record, and the finding is not required to be interfered with in my writ jurisdiction. It is further clear from Annexure-10, that on the petitioner's application for production of record, which was filed on 4.9.2001, it was ordered, that the petitioner be shown the record in the office, and 24.1.2002 was fixed to be the date, on which the record was to be shown. Then, in the order-sheet of 24.1.2002 it is endorsed, that the record was seen. Significantly the petitioner had filed affidavit in his evidence, before the learned trial court, much after the aforesaid inspection of the record, inasmuch as the affidavit is dated 7.6.2004, and significantly, in the entire affidavit, no details have been given, as to for how

many days did he work, in which particular month of which particular year. Obviously, when the record had been seen, these details were clear to the petitioner, and should have been given, to show, that the petitioner had worked for 240 days or more during any calendar year, instead a general and vague statement was given by the petitioner, and his witness, that the petitioner worked during the entire period 1978 to 1988, and that, in each year he completed 240 days, which, exfacie is not believable, on the face of the details given by the respondents.

Thus, I do not find any sufficient ground to interfere with the impugned award. The writ petition is, therefore, dismissed summarily.

(N P GUPTA),J.

/Sushil/